BILL No. 106 OF 1950. 123

THE REPRESENTATION OF THE PEOPLE (No. 2) BILL, 1950

(As Introduced in Parliament)

A

BILL

o provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

Be it enacted by Parliament as follows :—

PART I

Preliminary.

1. **Short title.**—This Act may be called the Representation of the People No. 2), Act, 1950.

2. **Interpretation.**—(1) In this Act, unless the context otherwise requires,—

(*a*) each of the expressions defined in section 2 or sub-section (1) of section 27 of the Representation of the People Act, 1950, but not defined in this Act, shall have the same meaning as in that Act ;

(*b*) " appropriate authority " means, in relation to an election to the House of the People or to the Council of States, the Central Government, and in relation to an election to the Legislative Assembly or the Legislative Council of a State, the State Government ;

(*c*) " corrupt practice " means any of the practices specified in section 118 or section 119 ;

(*d*) " Election " means an election to fill a seat or seats in either House of Parliament or in the House or either House of the Legislature of a State other than the State of Jammu and Kashmir ;

(*e*) " illegal practice " means any of the practices specified in section 120 ;

(*f*) " prescribed " means prescribed by rules made under this Act ;

(*g*) " sign " in relation to a person who is unable to write his name means authenticate in such manner as may be prescribed ;

(*h*) " Tribunal " means a tribunal appointed by the Election Commission under section 81.

(2) For the purposes of this Act, a Council of States constituency, a Parliamentary constituency, an Assembly constituency, a Council constituency, a local authorities' constituency, a graduates' constituency and a teachers' constituency shall each be treated as a constituency of a different class.

(3) Any requirement under this Act that a notification, order, rule, declaration, notice or list issued or made by any authority shall be published in the official Gazette, shall, unless otherwise expressly provided in this Act, be construed as a requirement that the notification, order, rule, declaration, notice or list shall—

(*a*) where it is issued or made by the Central Government, be published in the Gazette of India.

(*b*) where it is issued or made by a State Government be published if the official Gazette of the State ; and

(c) where it is issued or made by any other authority, be published in the Gazette of India if it relates to an election to, or membership of, either House of Parliament, and in the official Gazette of the State if it relates to an election to, or membership of, the House or either House of the Legislature of a State.

(4) Where, under any of the provisions of this Act, anything is to be prescribed, different provisions may be made for different cases or classes of cases.

(5) Any reference in this Act to a law which is not in force in a Part B State shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

PART II

QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP

CHAPTER I

Qualifications for membership of Parliament

3. Qualifications for membership of the Council of States.—(1) A person shall not be qualified to be chosen as a representative of any Part A or Part B State (other than the State of Jammu and Kashmir) in the Council of States unless he is entitled to vote in the choice of a member to fill any of the seats allotted to that State in the House of the People.

(2) A person shall not be qualified to be chosen as a representative of any Part C State or group of Part C States (Other than the States of Manipur and Tripura) in the Council of States unless he is entitled to vote in the choice a member as such representative.

(3) A person shall not be qualified to be chosen as a representative of the States of Manipur and Tripura in the Council of States unless he is entitled to vote in the choice of a member to fill any of the seats allotted to the said States in the House of the People.

4. Qualifications for membership of the House of the People.—A person shall not be qualified to be chosen to fill a seat in the House of the People, other than a seat allotted to the State of Jammu and Kashmir, unless—

(a) in the case of a seat reserved for the scheduled castes in any State, he is a member of any of the scheduled castes, whether of that State or of any other State, and is entitled to vote in the choice of a member to fill that seat or any other seat in the House of the People ;

(b) in the case of a seat reserved for the scheduled tribes in any State, other than a seat reserved for the scheduled tribes in the autonomous districts of Assam, he is a member of any of the scheduled tribes of that State for which the seat is so reserved and is entitled to vote in the choice of a member to fill that seat, or any other seat in the House of the People ;

(c) in the case of a seat reserved for the scheduled tribes in the autonomous districts of Assam, he is a member of any of those scheduled tribes and is entitled to vote in the choice of a member to fill that seat ; and

(d) in the case of any other seat he is entitled to vote in the choice of a member to fill that seat or any other seat in the House of the People.

CHAPTER II

Qualifications for membership of State Legislature

5. Qualifications for membership of a Legislative Assembly.—A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of a State unless—

(a) in the case of a seat reserved for the scheduled castes or for the scheduled tribes of that State, he is a member of any of those castes or of those tribes, as the

case may be, and is entitled to vote in the choice of a member to fill that seat or any other seat in that Legislative Assembly;

(*b*) in the case of a seat reserved for an autonomous district of Assam, other than a seat the constituency for which comprises the cantonment and municipality of Shillong, he is a member of a scheduled tribe of that district and is entitled to vote in the choice of a member to fill that seat or any other seat reserved for that district; and

(*c*) in the case of any other seat he is entitled to vote in the choice of a member to fill that seat or any other seat in that Legislative Assembly.

6. Qualifications for membership of a Legislative Council.—(1) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by election unless he is entitled to vote in the choice of a member to fill some seat in the Legislative Assembly of that State.

(2) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by nomination by the Governor unless he is ordinarily resident in the State.

CHAPTER III

Disqualifications

7. Disqualifications for membership of Parliament or of a State Legislautre.—(1) A person shall be disqualified for being chosen as and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State—

(*a*) if, whether before or after the commencement of the Constitution, he has been convicted, or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty, of any offence or corrupt or illegal practice relating to elections which has been declared by section 134 or section 135 to be an offence or practice entailing disqualification for membership of Parliament and of the Legislature of every State, unless such period has elapsed as has been provided in that behalf in the said section 134 or section 135, as the case may be;

(*b*) if, whether before or after the commencement of the Constitution, he has been convicted by a Court in India of any offence and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years, or such less period as the Election Commission may allow in any particular case, has elapsed since his release;

(*c*) if, having been nominated as a candidate for Parliament or the Legislature of any State or having acted as an election agent of any person so nominated, he has failed to lodge a return of election expenses within the time and in the manner required by or under this Act, unless five years have elapsed from the date by which the return ought to have been lodged or the Election Commission has removed the disqualification:

Provided that a disqualification under clause (*c*) shall not take effect until the expiration of two months from the date by which the return ought to have been lodged or of such longer period as the Election Commission may in any particular case allow.

(2) A person shall not be qualified for being chosen as a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State while he is serving a sentence of transportation or of imprisonment for an offence.

(3) Where a person who, by virtue of a conviction or a conviction and a sentence, becomes disqualified by virtue of clause (*a*) or clause (*b*) of sub-section (1), is at the date of the disqualification a member of parliament or of the Legislature of a State, then, notwithstanding anything in the foregoing provisions of this section, such disqualification shall not take effect until three months have

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elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but during any period during which such disqualification does not take effect under this sub-section, he shall not sit or vote in Parliament or in the Legislature of the State, as the case may be.

PART III

NOTIFICATION OF GENERAL ELECTIONS

CHAPTER I

Parliament

The Coucil of States

8. Notifications for election to the Council of States.—(1) For the purpose of constituting the Council of States under the Constitution in due time, the President shall,—

(*a*) after the names of the elected members of the Legislative Assemblies of Part A States and Part B States other than the State of Jammu and Kashmir first constituted under the Constitution have been notified under section 63, call upon the elected members of each such Assembly, by a notification in the Gazette of India to elect members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification, and

(*b*) by another notification call upon every Council of States constituency to elect a member or members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification.

(2) For the purpose of filling the seats of members retiring on the expiration of their respective terms of office in every second year after the constitution of the Council of States, the President shall,—

(*a*) by a notification in the Gazette of India, call upon the elected members of the Legislative Assembly of each of the States referred to in sub-section (1) concerned to elect members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified, in such notification, and

(*b*) by another notification call upon each of the Council of States constituencies concerned to elect a member or members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification:

Provided that the notifications under this sub-section shall be issued at such time not being more than four months prior to the date on which the term of office of the retiring members would expire under section 148 as may be appointed in this behalf by the Election Commission.

The House of the People

9. General elections to the House of the People.—(1) A General election shall be held for the purpose of constituting the House of the People under the Constitution in due time.

(2) A general election shall also be held on the expiration of the duration of the House of the People or on its dissolution in order that a new House of the People may be constituted.

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10. Notification for election to the House of the People.—For the purpose of constituting the House of the People under the Constitution in due time or on the expiration of the duration of the House of the People or on its dissolution, the President shall, by a notification in the Gazette of India call upon every Parliamentary constituency to elect a member or members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification :

Provided that for the first general election to be held under the Constitution for the purpose of constituting the House of the People in due time the said notification shall be issued at such time as may be appointed in this behalf by the Election Commission :

Provided further that for any general election for the purpose of constituting the House of the People on the expiration of its duration, the said notification shall be issued at such time, not being more than four months prior to the date on which the duration of the House of the People would expire in the ordinary course of of events, as may be appointed in this behalf by the Election Commission.

CHAPTER II

State Legislatures

The State Legislative Assemblies

11. General Elections to Legislative Assemblies.—(1) A general election shall be held for the purpose of constituting the Legislative Assembly of each State under the Constitution in due time.

(2) A general election shall also be held on the expiration of the duration of an Assembly or on its dissolution in order that a new Assembly may be constituted.

12. Notification for election to State Legislative Assemblies.—For the purpose of constituting the Legislative Assembly of a State under the Constitution in due time or on the expiration of the duration of an Assembly or on its dissolution, the Governer or Rajpramukh, as the case may be, of the State shall, by a notification in the official Gazette, call upon every Assembly constituency to elect a member or members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification :

Provided that for the first general election to be held under the Constitution for the purpose of constituting the Legislative Assembly of a State in due time the said notification shall be issued at such time as may be appointed in this behalf by the Election Commission :

Provided further that for the purpose of constituting the Legislative Assembly of a State on the expiration of its duration the said notification shall be issued at such time not being more than four months prior to the date on which the duration of the Legislative Assembly of the State would expire in the ordinary course of events, as may be appointed in this behalf by the Election Commission.

The State Legislative Councils

13. Notifications for election to State Legislative Councils.—(1) For the purpose of constituting the Legislative Council of a State under the Constitution in due time, the Governor or Rajpramukh of the State, as the case may be, shall—

(*a*) by a notification in the official Gazette call upon every local authorities' constituency, every graduates' constituency and every teachers' constituency to elect in accordance with the provisions of this Act

and of the rules and orders thereunder a member or members within such time as may be appointed in this behalf by the Election Commission and specified in such notification, and

(b) after the names of the members of the Legislative Assembly of the State first constituted under the Constitution have been notified under section 63, call upon such members, by another notification in the official Gazette, to elect members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification.

(2) For the purpose of filling the seats of members retiring on the expiration of their respective terms of office in every second year after the constitution of the Legislative Council of a State, the Governor or Rajpramukh as the case may be, shall—

(a) by a notification in the official Gazette call upon every local authorities' constituency, every graduates' constituency and every teachers' constituency concerned to elect in accordance with the provisions of this Act and of the rules and orders thereunder a member or members within such time as may be appointed in this behalf by the Election Commission and specified in such notification, and

(b) by another notification in the official Gazette call upon the members of the Legislative Assembly of the State to elect members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification :

Provided that the notifications under this sub-section shall be issued at such time, not being more than four months prior to the date on which the term of office of the retiring members would expire under section 150, as may be appointed in this behalf by the Election Commission.

PART IV

ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS

14. Definition.—In this Part and in Part V, unless the context otherwise requires, "constituency" means a Council of States constituency or a Parliamentary constituency or an Assembly constituency or a Council constituency.

15. Returning Officer for each constituency.—For each constituency there shall be a Returning Officer who shall be such officer of Government as the Election Commission may, in consultation with the Government of the State in which the constituency is situated, designate or nominate.

16. Returning Officers at other elections.—The Returning Officer for an election by the members of the Legislative Assembly of a State to fill seats in the Council of States or in the Legislative Council of the State shall be such officer of Government as the Election Commission may, in consultation with the Government of that State, designate or nominate.

17. Assistant Returning Officers.—(1) The Election Commission may appoint one or more persons to assist any Returning Officer in the performance of his functions :

Provided that every such person shall be an officer of Government.

(2) Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer :

Provided that no Assistant Returing Officer shall perform any of the functions of the Returning Officer which relate to the acceptance of a nomination paper or to the scrutiny of nominations or to the counting of votes unless the Returning Officer is unavoidably prevented from performing the said function.

18. Returning Officer to include Assistant Returning Officers performing the functions of the Returning Officer.—References in this Act to the Returning Officer shall, unless the context otherwise requires, be deemed to include an Assistant Returning Officer performing any function which he is authorised to perform under sub-section (2) of section 17.

19. General duty of the Returning Officer.—It shall be the general duty of the Returning Officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and rules or orders made thereunder.

20. Provision of polling stations for Constituencies.—The Returning Officer for each constituency shall, with the previous approval of the Election Commission, provide a sufficient number of polling stations for such constituency, and shall publish, in such manner as the Election Commission may direct, a list showing the polling stations so provided and the polling areas for which they have respectively been provided.

21. Appointment of presiding officers for polling stations.—(1) The Returning Officer shall appoint a presiding officer for each polling station and such polling officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of a candidate in or about the election :

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the Returning Officer accordingly.

(2) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under this Act or any rules or orders made thereunder.

(3) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorised by the Returning Officer to perform such functions during any such absence.

(4) References in this Act to the presiding officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorised to perform under sub-section (2) or sub-section (3), as the case may be.

22. General duty of the presiding officer.—It shall be the general duty of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken.

23. Duties of a polling officer.—It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.

24. Special provisions in the case of certain elections.—(1) The Returning Officer for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Council of States or in the Legislative Council of the State shall, with the previous approval of the Election Commission, fix the place at which the poll will be taken for such election and shall notify the place so fixed in such manner as the Election Commission may direct.

(2) The Returning Officer shall preside over such election at the place so fixed and shall appoint such polling officer or officers to assist him as he thinks necessary

but he shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.

PART V

CONDUCT OF ELECTIONS

CHAPTER I

Nomination of candidates

25. Appointment of dates for nominations, etc.—As soon as the notification calling upon a constituency to elect a member or members is issued under the provisions of Part III, the appropiate authority shall, by notification in the Official Gazette, appoint—

(*a*) the last date for making nominations, which shall be a date not later than the fourteenth day after the date of the first mentioned notification;

(*b*) the date for the scrutiny of nominations, which shall be a date not later than the seventh day after the last date for making nominations;

(*c*) the last date for the withdrawal of candidatures, which shall be a date not later than the third day after the date for the scrutiny of nominations; and

(*d*) the date or dates on which a poll shall, if necessary, be taken.

26. Public notice of election.—On the issue of a notification under section 25, the Returning Officer for the constituency shall give public notice of the intended election in such form and manner as may be presrcibed, inviting nominations of candidates for such election.

27. Nomination of candidates for election.—Any person may be nominated as a candidate for election to fill a seat in any constituency if he is qualified to be chosen to fill that seat under the provisions of the Constitution and this Act.

28. Presentation of nomination paper and requirements for a valid nomination.—(1) On or before the date appointed under clause (*a*) of section 25 each candidate shall, either in person or by his proposer or seeconder, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon deliver to the Returning Officer a nomination paper completed in the prescribed form and subscribed by the candidate himself as assenting to the nomination and by two persons referred to in sub-section (2) as proposer and seconder.

(2) Any person whose name is registered in the electoral roll of the constituency and who is not subject to any disqualification mentioned in section 16 of the Representation of the People Act, 1950 (XLIII of 1950) may subscribe as proposer or seconder as many nomination papers as there are vacancies to be filled but no more:

Provided that if the name of a person is entered more than once in the electoral roll of a constituency or is included in the electoral roll of two or more constituencies of the same class, such person shall not be entitled to subscribe as proposer or seconder more than one nomination paper for each vacancy to be filled in that constituency, or in not more than one of such constituencies of the same class.

(3) Every nomination paper delivered under sub-section (1) shall be accompanied by a declaration in writing subscribed by the candidate that the candidate has appointed as his election agent for the election either himself or another person who is not disqualified under this Act for the appointment and who shall be named in the declaration, and by such other declarations, if any, as may be prescribed; and no candidate shall be deemed to be duly nominated unless such declaration is, or all such declarations are, delivered along with the nomination paper.

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(4) Any nomination paper which is not received before three o'clock in the afternoon on the date appointed under clause (*a*) of section 25 shall be rejected.

(5) On the presentation of a nomination paper, the Returning Officer may require the person presenting the same to produce copies of the electoral rolls in which the names of the candidate and his proposer and seconder are included or of the relevant entries in such rolls, and shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer and seconder as entered in the nomination paper are the same as those entered in the electoral rolls :

Provided that the Returning Officer may—

(*a*) permit any clerical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the electoral rolls ; and :

(*b*) where necessary, direct that any clerical or printing error in the said entries, shall be overlooked.

29. Deposits.—At the time of delivery of nomination paper under sub-section (1) of section 28, each candidate shall enclose with the nomination paper a receipt from the Reserve Bank of India or a Government Treasury showing that a deposit of five hundred rupees in the case of an election to Parliament and a deposit of two hundred and fifty rupees in the case of an election to the Legislature of a State has been made by him in the Reserve Bank of India or the Treasury, and no candidate shall be deemed to be duly nominated unless such deposit has been made and such receipt has been enclosed with the nomination paper :

Provided that where the candidate is a member of any of the scheduled castes or scheduled tribes, the amount to be deposited by him shall be two hundred and fifty rupees in the case of an election to Parliament, and one hundred and twenty-five rupees in the case of an election to the Legislature of a State :

Provided further that where a candidate delivers more than one nomination paper for election in the same constituency not more than one deposit shall be required of him under this section.

30. Notice of nominations and the time and place for their scrutiny.—The Returning Officer shall, on receiving the nomination paper under sub-section (1) of section 28, inform the person or persons delivering the same of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him ; and shall, as soon as may be thereafter, caused to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions similar to those contained in the nomination paper, both of the candidate and of the persons who have subscribed the nomination paper as proposer and seconder.

31. Scrutiny of nominations.—(1) On the date fixed for the scrutiny of nominations under section 25, the candidates, their election agents, one proposer and one seconder of each candidate, and one other person duly authorised in writing by each candidate, but no other person, may attend at such time and place as the Returning Officer may appoint ; and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in section 28.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination, and may, either on

such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, refuse any nomination on any of the following grounds :—

(*a*) that the candidate is not qualified to be chosen to fill the seat under the Constitution or this Act ; or

(*b*) that the candidate is disqualified for being chosen to fill the seat under the Constitution or this Act ; or

(*c*) that a proposer or seconder is disqualified from subscribing a nomination paper under sub-section (2) of section 28 ; or

(*d*) that there has been any failure to comply with any of the provisions of section 28 or section 29 ; or

(*e*) that the signature of the candidate or any proposer or seconder is not genuine or has been obtained by fraud.

(3) Nothing contained in clause (*c*), clause (*d*) or clause (*e*) of sub-section (2) shall be deemed to authorise the refusal of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not refuse any nomination paper on the ground of a slight technical defect, such as, the wrong spelling of a name.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (*b*) of section 25 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence.

(6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(7) For the purposes of this section—

(*a*) the production of any certified copy of an entry made in the electoral roll of any constituency shall be conclusive evidence of the right of any elector named in that entry to stand for election or to subscribe a nomination paper, as the case may be, unless it is proved that the candidate is disqualified under the Constitution or this Act, or that the proposer or seconder, as the case may be, is disqualified under sub-section (2) of section 28.

(*b*) where a person has subscribed, whether as proposer or seconder, a larger number of nomination papers than there are vacancies to be filled, those of the papers so subscribed which have been first received, up to the number of vacancies to be filled, shall be deemed to be valid.

32. Withdrawal of candidature.—(1) Any candidate may withdraw his candidature by a notice in writing in the prescribed form subscribed by him and delivered to the Returning Officer either by such candidate in person or by his proposer or seconder before three o'clock in the afternoon on the day fixed under clause (*c*) of section 25 :

Provided that if that day is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881 (XXVI of 1881) or has been notified by the appropriate authority as a day to be observed as a holiday in Government offices in the State, the notice of withdrawal of candidature shall be considered as having been delivered in due time if it is delivered before three o'clock in the afternoon on the next succeeding day which is neither such a public holiday nor a day so notified.

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1) shall be allowed to cancel the notice or to be renominated as a candidate for the same election.

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(3) The Returning Officer shall, on receiving a notice of withdrawal under sub-section (1), as soon as may be thereafter, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

33. Publication of nominations.—The Returning Officer shall, immediately after the expiry of the period within which candidatures may be withdrawn under sub-section (1) of section 32, prepare and publish a list of valid nominations in such manner as may be prescribed :

Provided that where the Returning Officer has under section 31 made an order from which an appeal lies under section 35, no such list shall be prepared or published until the expiration of the period within which such appeal may be presented and, if an appeal has been presented within that period, until the appeal has been disposed of and the orders of the appellate authority have been received by the Returning Officer.

34. Nomination of candidates at other elections.—(1) Any person may be nominated as a candidate for election to fill a seat in the Council of States to be filled by election by the members of the Legislative Assembly of a State, or a seat in the Legislative Council of a State to be filled by election by the members of the Legislative Assembly of that State, if he is qualified to be chosen to fill that seat under the Constitution and this Act.

(2) The appropriate authority shall, by notification in the official Gazette, appoint for each such election—

(*a*) the last date for making nominations, which shall be a date not later than the fourteenth day after the date of the notification calling upon the members of the Legislative Assembly of the State to elect a member or members ;

(*b*) the date for the scrutiny of nominations, which shall be a date not later than the seventh day after the last date for making nominations ;

(*c*) the last date for the withdrawal of candidatures, which shall be a date not later than the third day after the date for the scrutiny of nominations ; and

(*d*) the date on which a poll shall, if necessary, be taken.

(3) The provisions of sub-sections (1), (3), (4) and (5) of section 28 and sections 29 to 33 shall apply in relation to nominations of candidates, doposits to be made on such nominations and withdrawal of candidatures at any such election as they apply in relation to nominations of candidates, deposits to be made on such nominations and withdrawal of candidatures at elections in any constituency :

Provided that any person who is a member of the Legislative Assembly of a State the members of which have been called upon to elect a member or members to the Council of States or to the Legislative Council of the State, as the case may be, shall be qualified to subcribe as proposer or seconder as many nomination papers as there are vacancies to be filled, but no more :

Provided further that any references in the said provisions—

(*a*) to the electoral roll of the constituency shall be construed as a reference to the list of members made available to the members of the Legislative Assembly under sub-section (2) of section 146 ;

(*b*) to section 25 and to sub-section (2) of section 28 shall be construed as references to sub-section (2) of this section and to the first proviso to this sub-section respectively.

CHAPTER II

Disputes regarding nominations.

35. Appeals from decisions of Returning Officers.—(1) The Returning Officer shall on the application of any person nominated as a candidate for the election or

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the election agent or proposer or seconder of such person supply forthwith to the applicant a copy of the decision of such officer accepting or rejecting any nomination under Chapter I of this Part in respect of such election together with the statement of reasons, if any, therefor.

(2) Any person aggrieved by the decision of the Returning Officer accepting or rejecting any nomination paper under Chapter I of this Part may, within seven days from the date of such decision present an appeal therefrom to such authority as may be designated or nominated in this behalf by the Election Commission.

(3) In every such appeal the appellant shall join as respondents to his appeal all other candidates for the election whose nomination papers have been accepted or rejected by the Returning officer.

(4) On presentation of the appeal the appellate authority shall forthwith send for the records of the case from the Returning Officer, and after perusing the same and holding such summary inquiry as it thinks fit decide the appeal and pass orders either confirming the decision of the Returning Officer or directing him to accept or reject the nomination paper in question and shall without delay send a copy of its orders to the Returning Officer :

Provided that no appeal shall be decided under this sub-section without giving the parties thereto in the prescribed manner an opportunity of being heard.

(5) On receipt of the order of the appellate authority the Returning Officer shall, where such authority has directed him to accept or reject any nomination paper, comply with such order.

(6) The decision of the appellate authority and, subject only to such decision, the decision of the Returning Officer accepting or rejecting any nomination paper under Chapter I of this Part shall be final and conclusive.

(7) Nothing in this section shall apply in relation to the first elections held under this Act.

CHAPTER III

Candidates and their agents

36. Appointment of election agents.—(1) Every person nominated as a candidate at an election shall before the delivery of his nomination paper under sub-section (1) of section 28 or under that sub-section read with sub-section (3) of section 34, as the case may be, appoint in writing either himself or some one other person to be his election agent.

(2) When a candidate appoints some person other than himself to be his election agent he shall obtain in writing the acceptance by such person of the office of such election agent.

37. Disqualification for being an election agent.—No person shall be appointed an election agent who is disqualified from being an election agent under section 140.

38. Revocation of the appointment or death of an election agent.—(1) Any revocation of the appointment of an election agent, whether he be the candidate himself or not, shall be signed by the candidate, and shall operate from the date on which it is lodged with the Returning Officer.

(2) In the event of such a revocation or of the death of an election agent, whether that event occurs before or during the election, or after the election but before a return of the candidate's election expenses has been lodged in accordance with the provisions of section 71, the candidate shall appoint forthwith either himself or some other person to be his election agent in the manner provided in section 36, and shall give notice in writing of the appointment to the Returning Officer.

39. Effect of default in appointment of election agent under section 38.—(1) If the appointment of an election agent is revoked without a new appointment

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being made, the candidate himself shall be deemed to have been appointed or re-appointed, as the case may be, his election agent.

(2) If the election agent (not being the candidate himself) dies and a new appointment is not made on the day of the death or on the following day, the candidate shall be deemed to have appointed himself his election agent as from the time of the death.

40. Duty of the election agent to keep accounts.—Every election agent shall, for each election for which he is appointed election agent, keep separate and regular books of account, and shall enter therein such particulars of expenditure in connection with the election as may be prescribed.

41. Other functions of the election agent.—Every election agent shall perform such other functions in connection with each election for which he is appointed election agent as are required to be performed by or under this Act by such agent.

42. Appointment of polling agents.—A candidate who has been duly nominated under this Act and who has not withdrawn his candidature in the manner and within the time specified in sub-section (1) of section 32, or in that sub-section read with sub-section (3) of section 34, as the case may be, may, at least seven days before the commencement of the poll, appoint in the prescribed manner one agent and one relief agent and no more to act as his polling agent at each polling station, and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the Returning Officer and to such other officer, as may be prescribed.

43. Appointment of counting agents.—Any such candidate as is mentioned in section 42 may, before the commencement of the poll, appoint in the prescribed manner one agent and no more to be present as his counting agent at the counting of votes, and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the Returning Officer.

44. Revocation of the appointment or death of a polling agent or counting agent.—(1) Any revocation of the appointment of a polling agent or counting agent shall be signed by the candidate, and shall operate from the date on which it is lodged with the Returning Officer.

(2) In the event of such revocation or of the death of polling agent or counting agent before the close of the poll, the candidate may appoint in the prescribed manner another polling agent or counting agent, as the case may be, at any time before the poll is closed, and shall forthwith give notice of such appointment in the prescribed manner to the Returning Officer and to such other officer as may be prescribed.

45. Functions of polling agents and counting agents.—(1) A polling agent may perform such functions in connection with the poll as are authorised by or under this Act to be performed by a polling agent.

(2) A counting agent may perform such functions in connection with the counting of votes as are authorised by or under this Act to be performed by a counting agent.

46. Performance by a candidate of the functions of a polling agent or counting agent.—A candidate may himself do any act or thing which any polling or counting agent of his, if appointed, would have been authorised by or under this Act to do, or may assist his polling or counting agent in doing any such act or thing.

47. Non-attendance of polling or counting agents.—Where any act or thing is required or authorised by or under this Act to be done in the presence of the polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purposes shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

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CHAPTER IV

General procedure at elections

48. Death of candidate before poll.—If a candidate who has been duly nominated under this Act dies after the date fixed for the scrutiny of nominations and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Election Commission and also to the appropriate authority and all proceedings with reference to the election shall be commenced a new in all respects as if for anew election:

Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the countermanding of the poll.

49. Procedure in contested and uncontested elections.—(1) If the number of candidates who were duly nominated and who have not withdrawn their candidatures in the manner and within the time specified in sub-section (1) of section 32, or in that sub-section read with sub-section (3) of section 34, as the case may be, exceeds the number of seats to be filled, the Returning Officer shall forthwith publish in such form and manner as may be prescribed a list containing the names in alphabetical order and addresses of candidates as given in the nomination papers, together with such other particulars as may be prescribed, and a poll shall be taken.

(2) If the number of such candidates is equal to the number of seats to be filled, the Returning Officer shall declare all such candidates to be duly elected to fill those seats.

(3) If the number of such candidates is less than the number of seats to be filled, the Returning Officer shall declare all such candidates to be elected and the appropriate authority shall, by notification in the official Gazette, call upon the constituency or the members of the State Legislative Assembly concerned, as the case may be, to elect a person or persons to fill the remaining seat or seats within such time as may be fixed by the Election Commission and specified in the notification.

Provided that where the constituency or the members of the State Legislative Assembly having already been called upon under this sub-section, has or have failed to elect a person or the requisite number of persons, as the case may be, to fill the vacancy or vacancies, the appropriate authority shall not be bound to call again upon the constituency, or such members to elect a person or persons until such date as the Election Commission may specify in this behalf.

50. Special procedure at elections in constituencies where seats are reserved for scheduled castes or scheduled tribes.—(1) The provisions of this section shall apply in relation to any election in a constituency where the seats to be filled include one or more seats reserved for the scheduled castes or for the scheduled tribes (hereinafter referred to as "reserved seats").

(2) If the number of candidates qualified to be chosen to fill the reserved seats is equal to the number of such seats, all those candidates shall be declared to be elected to fill the reserved seats, and the procedure laid down in section 49 shall be followed for filling the remaining seat or seats.

(3) If the number of candidates qualified to be chosen to fill the reserved seats exceeds the number of suchseats, but the total number of candidates is equal to the total number of seats to be filled, the Returning Officer shall declare all the candidates to be duly elected to fill those seats.

(4) If the number of candidates qualified to be chosen to fill the reserved seats exceeds the number of such seats, and the total number of candidates also exceeds the total number of seats to be filled, the procedure laid down in sub-section (1) of

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section 49 shall be followed; and after the poll has been taken, the Returning Officer shall first declare those who, being qualified to be chosen to fill the reserved seats, have secured the largest number of votes, to be duly elected to fill the reserved seats, and then declare such of the remaining candidates as have secured the largest number of votes to be duly elected to fill the remaining seats.

Illustration.—At an election in a constituency to fill four seats of which two are reserved, there are six candidates A, B, C, D, E and F, and they secure votes in descending order, A securing the largest number. B, C and D are qualified to be chosen to fill the reserved seats, while A, E and F are not so qualified. The Returning Officer will first declare B and C duly elected to fill the two reserved seats, and then declare A and D (*not* A and E) to fill the remaining two seats.

(5) If the number of candidates qualified to be chosen to fill the reserved seats is less than the number of such seats,—

(*a*) all those candidates shall be declared to be duly elected to fill reserved seats;

(*b*) the procedure laid down in section 49 shall be followed for filling the seats other than the reserved seats; and

(*c*) the appropriate authority shall, by notification in the official Gazette, call upon the constituency to elect a person or persons to fill the remaining reserved seat or seats within such time as may be fixed by the Election Commission and specified in the notification:

Provided that where a constituency having been already so called upon has failed to elect a person or the requisite number of persons to fill the reserved seat or seats, the appropriate authority shall not be bound to call again upon the constituency to elect a person or persons to fill the vacancy or vacancies until such date as the Election Commission may specify in this behalf.

(6) In this section, references to candidates shall be construed as references to candidates who were duly nominated and who have not withdrawn their candidatures in the manner and within the time specified in sub-section (1) of section 32.

51. Eligibility of members of scheduled castes or scheduled tribes to hold seats not reserved for those castes or tribes.—For the avoidance of doubt it is hereby declared that a member of the scheduled castes or of the scheduled tribes shall not be disqualified to hold a seat not reserved for members of those castes or tribes, if he is otherwise qualified to hold such seat under the Constitution and this Act.

CHAPTER V.

The Poll.

52. Fixing time for poll.—The appropriate authority shall fix the hours during which the poll will be taken; and the hours so fixed shall be published in such manner as may be prescribed.

53. Adjournment of poll in emergencies.—(1) If at an election the proceedings at any polling station provided under section 20 or at the place fixed under sub-section (1) of section 24 for the poll are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity, the failure of arrangements for taking the poll or other sufficient cause, the presiding officer for such polling station or the Returning Officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later and where the poll is so adjourned by a presiding officer, he shall forthwith inform the Returning Officer concerned.

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(2) Whenever a poll is adjourned under sub-section (1), Returning Officer shall immediately report the circumstances to the appropriate authority and the Election Commission, and shall, as soon as may be, with the previous approval of the Election Commission, appoint the day on which the poll shall recommence, and fix the polling station or place at which, and the hours during which, the poll will be taken, and shall not finally declare the result of the election until such adjourned poll shall have been completed and the votes cast thereat shall have been counted.

(3) In every such case as aforesaid, the Returning Officer shall notify in such manner as the Election Commission may direct the date, place and hours of polling fixed under sub-section (2).

(4) This section shall apply to any interruption or obstruction caused by persons being prevented by riot or open violence from proceeding to any polling station or place fixed for the poll, as the case may be, as well as to any interruption or obstruction caused in any other manner by riot or open violence.

54. Fresh poll in the case of destruction, etc. of ballot boxes.—(1) If at any election any ballot box or boxes is or are unlawfully taken out of the custody of the Returning Officer or of any presiding officer, or is or are in any way tampered with, or is or are either accidently or intentionally destroyed or lost, the election to which such ballot box or boxes relate shall be void, but only in respect of the polling at the polling station or stations provided under section 20 or the place fixed under sub-section (1) of section 24 for the poll, as the case may be, at which such ballot box or boxes was or were used and no further.

(2) Whenever the polling at any poling station or stations or at the place fixed for the poll shall become void under sub-section (1), the Returning Officer shall, as soon as practicable after the act or event causing such voidance has come to his knowledge, report the matter to the appropriate authority and to the Election Commission and shall, with the previous approval of the Election Commission, appoint a day for the taking of a fresh poll in such or every such polling station or in such place fixed for the poll and fix the hours during which the poll will be taken, and shall not count the votes cast at such election until such fresh poll shall have been completed.

(3) In every such case as aforesaid the Returning Officer shall take a fresh poll in such or every such polling station or in such place fixed for the poll as aforesaid on the day so appointed by him, and shall notify the day so appointed and the hours of polling so fixed by him in such manner as the Election Commission may direct, and the provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

55. Manner of voting at elections.—At every election where a poll is taken, votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

56. Special procedure for voting by certain classes of persons.—Provision may be made by rules made under this Act for enabling any of the following persons to give his vote by postal ballot, and not in any other manner, at an election in a constituency where poll is taken, namely—

(*a*) a member of the Armed Forces of the Union to whom the provisions of of sub-section (3) of section 20 of the Representation of the People Act, 1950 (XLIII of 1950), apply;

(*b*) a person holding any office in India declared by the President to be an office to which the provisions of sub-section (4) of that section apply;

(*c*) a person who is employed under the Government of India in a post outside India;

(*d*) the wife of any such person as is referred to in clauses (*a*), (*b*) and (*c*) to whom the provisions of sub-section (6) of the said section 20 apply; and

(*e*) any person attending on official duty at a polling station in any constituency under the orders of, or authority from, the Returning Officer of such constituency.

57. Special procedure for preventing personation of voters.—Provision may also be made by rules made under this Act for the marking with indelible ink of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper or papers to him and for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper he has already such a mark on his thumb or any other finger so as to prevent personation of voters.

58. Right to vote.—(1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of any constituency shall be entitled to vote in that constituency.

(2) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in section 16 of the Representation of the People Act, 1950 (XLIII of 1950).

(3) No person shall vote at a general election in more than one constituency of the same class, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.

(4) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

(5) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police, or is subjected to preventive detention under any law for the time being in force.

59. Method of voting.—(1) In plural member constitutencies other than Council constituencies every elector shall have as many votes as there are members to be elected, but no elector shall give more than one vote to any one candidate.

(2) If an elector gives more than one vote to any one candidate in contravention of the provisions of sub-section (1), all the votes given by him to such candidate shall be void.

CHAPTER VI

Counting of Votes

60. Counting of votes.—At every election where a poll is taken, votes shall be counted by, or under the supervision of the Returning Officer, and each candidate, his election agent and his counting agent, shall have a right to be present at the time of counting.

61. Equality of Votes.—If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

62. Declaration of result.—When the counting of the votes has been completed, the Returning Officer shall forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder.

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63. Report of the result.—As soon as may be after the candidates have been declared elected to a House of Parliament or of the Legislature of a State, the Returning Officer shall report the result of the election to the Secretary of that House, the appropiate authority and the Election Commission, and the appropriate authority shall cause to be published in the official Gazette the declarations containing the names of the elected candidates.

CHAPTER VII

Multiple Elections

64. Vacation of seats when elected to both Houses of Parliament.—(1) Any person who is chosen a member of both the House of the People and the Council of States and who has not taken his seat in either House may, by notice in writing signed by him and delivered to the Secretary to the Election Commission within ten days from the date of publication in the Gazette of India of the declarations that he has been so chosen or, if such publications have been made on different dates, within ten days from the latter of such dates, intimate in which of the Houses he wishes to serve, and thereupon, his seat in the House in which he does not wish to serve shall become vacant.

(2) In default of such intimation within the aforesaid period, his seat in the Council of States shall, at the expiration of that period, become vacant.

(3) Any intimation given under sub-section (1) shall be final and irrevocable.

65. Vacation of seats by persons already members of one House on election to other House of Parliament.—(1) If a person who is already a member of the House of the People and has taken his seat in such House is chosen a member of the Council of States, his seat in the House of the People shall, on the publication in the Gazette of India of the declaration that he has been so chosen, become vacant.

(2) If a person who is already a member of the Council of States and has taken his seat in such Council is chosen a member of the House of the People, his seat in the Council of States shall, on the publication in the Gazette of India of the declaration that he has been so chosen, become vacant.

66. Election to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State.—If a person is elected to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State, then, unless within the prescribed time he resigns all but one of the seats, all the seats shall become vacant.

CHAPTER VIII

Publication of election results and nominations

67. Publication of results of elections to the Council of States and of names of persons nominated by the President.—(1) After the elections held in pursuance of the notifications issued under sub-section (1) of section 8, there shall be notified by the appropiate authority in the official Gazette the names of the members elected by elected members of the Legislative Assemblies of the States and for the various Council of States constituencies at the said elections together with the names of the persons nominated by the President to the Council under sub-clause (*a*) of clause (1) of article 80 or under any other provisions.

(2) After the elections held in any year in pursuance of the notifications issued under sub-section (2) of section 8, there shall be notified by the appropriate

authority in the official Gazette the names of the members elected by the elected members of the Legislative Assemblies of the States and for the various Council of States constituencies at the said elections together with the names of any persons nominated by the President to the Council under sub-clause (*a*) of clause (1) of article 80 or under any other provisions.

(3) The notification of names under sub-section (1) or sub-section (2) shall be in addition to the publication of the declarations under section 63 and shall be made as soon as may be after the expiration of the time fixed for the election of members under sub-section (1) or, as the case may be, sub-section (2) of section 8, and after the publication of the notification or notifications containing the names of persons nominated by the President to the Council under sub-clause (*a*) of clause (1) of article 80 or under any other provisions.

68. Publication of results of general elections to the House of the People and of names of persons nominated by the President.—As soon as may be after the expiration of the time fixed for the election of members to the House of the People at any general election, there shall be notified by the appropriate authority in the official Gazette the names of the members elected for the various Parliamentary constituencies at such election together with the names of persons, if any, nominated by the President to the House under article 331 or under any other provisions, and such notification shall be in addition to the publication of the declarations under section 63.

69. Publication of results of general elections to the State Legislative Assemblies and of names of persons nominated to such Assemblies.—As soon as may be after the expiration of the time fixed for the election of members to the Legislative Assembly of a State at any general election, there shall be notified by the appropriate authority in the official Gazette the names of the members elected for the various Assembly constituencies at such election together with the names of persons, if any, nominated by the Governor or Rajpramukh, as the case may be, of the State under article 333 or under any other provisions and such notification shall be in addition to the publication of the declarations under section 63.

70. Publication of results of elections to the State Legislative Councils and of names of persons nominated to such Councils.—(1) After the elections held in pursuance of the notifications issued under sub-section (1) of section 13, there shall be notified by the appropriate authority in the official Gazette the names of the members elected for the various Council constituencies and by the members of the Legislative Assembly of the State at the said elections together with the names of the persons nominated by the Governor or Rajpramukh, as the case may be, of the State under sub-clause (*e*) of clause (3) of article 171.

(2) After the elections held in any year in pursuance of the notifications issued under sub-section (2) of section 13 there shall be notified by the appropriate authority in the official Gazette the names of the members elected for the various Council constituencies and by the members of the Legislative Assembly of the State at the said elections together with the names of any persons nominated by the Governor or Rajpramukh, as the case may be, under sub-clause (*e*) of clause (3) of article 171.

(3) The notification of names under sub-section (1) or sub-section (2) shall be in addition to the publication of the declarations under section 63 and shall be made as soon as may be after the expiration of the time fixed for the election of members under sub-section (1), or as the case may be, sub-section (2) of section 13, and after the publication of the notification containing the names of persons nominated by the Governor or the Rajpramukh, as the case may be, under sub-clause (*e*) of clause (3) of article 171.

CHAPTER IX

Election expenses

71. Return of election expenses.—(1) Within the prescribed time after every election there shall be lodged with the Returning Officer in respect of each person who has been nominated as a candidate, a return of the election expenses of that person signed both by him and his election agent.

(2) Every such return shall be in such form and shall contain such particulars as may be prescribed, and shall be accompanied by declarations in the prescribed form by the candidate and his election agent made on oath or solemn affirmation before a Magistrate.

(3) Notwithstanding anything in this section, where owing to absence from India a candidate is unable to sign the return of election expenses and to make the required declaration, the return shall be signed and lodged by the election agent only and shall be accompanied by a declaration by the election agent only, and the candidate shall within fourteen days after his return to India, cause to be lodged with the Returning Officer a declaration made on oath or solemn affirmation before a Magistrate in such form as may be prescribed.

72. Maximum election expenses, etc.—The maximum scales of election expenses at elections and the numbers and descriptions of persons who may be employed for payment in connection with election shall be such as may be prescribed.

73. Application of this Chapter to elections by the members of a State Legislative Assembly to fill seats in the Council of States or in the State Legislative Council.—Except so far as may be prescribed, this Chapter shall not apply to an election by the members of the Legislative Assembly of a State to fill seats in the Council of States or to an election by the members of the Legislative Assembly of a State to fill seats in the Legislative Council of that State.

PART VI

DISPUTES REGARDING ELECTIONS

CHAPTER I

Interpretation

74. Definitions.—In this Part and in Parts VII and VIII, unless the context otherwise requires,—

(*a*) "agent" includes an election agent, a polling agent and a counting agent and any person who, on the trial of an election petition or of an offence with respect to any election, is held to have acted as an agent in connection with the election with the knowledge or consent of the candidate;

(*b*) "candidate" means a person who has been or claims to have been duly nominated as a candidate at any election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;

(*c*) "costs" means all costs, charges and expenses of, or incidental to, a trial of an election petition;

(*d*) "electoral right" means the right of a person to stand or not to stand as, or to withdraw from being, a candidate, or to vote or refrain from voting at an election;

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(e) "pleader" means any person entitled to appear in a civil court and includes an advocate, a va a High Court;

(f) "returned candidate" means a candidate whose name has been published under section 63 as duly elected.

CHAPTER II

Presentation of Election Petitions to Election Commission.

75. Election petitions.—No election shall be called in question except by an election petition presented in accordance with the provisions of this Part.

76. Presentation of petitions.—(1) An election petition against any returned candidate may be presented to the Election Commission, in such form and within such time as may be prescribed,—

(a) by a candidate or elector on one or more of the grounds specified in clauses (a) to (c) of sub-section (1) of section 95, clauses (a) to (c) of sub-section (2) of that section and clauses (a) and (b) of section 96;

(b) by an officer empowered in this behalf by the appropriate authority, on the ground that the election has not been a free election by reason that the corrupt practice of bribery or undue influence has extensively prevailed at the election.

(2) An election petition shall be deemed to have been presented to the Election Commission when it is delivered to the Secretary to the Commission or to such other officer, as may be authorised by the Election Commission in this behalf—

(a) by the person making the petition; or

(b) by a person authorised in writing in this behalf by the person making the petition; or

(c) by registered post.

77. Parties to the petition.—A petitioner shall join as respondents to his petition all the candidates who were duly nominated at the election other than himself if he was so nominated.

78. Contents of petition.—(1) An election petition shall contain a concise statement of the material facts on which the petitioner relies and shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure 1908 (Act V of 1908) for the verification of pleadings.

(2) The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt or illegal practice which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed such corrupt or illegal practice and the date and place of the commission of each such practice.

(3) The Tribunal may, upon such terms as to costs and otherwise as it may direct at any time, allow the particulars included in the said list to be amended or order such further and better particulars in regard to any matter referred to therein to be furnished as may in its opinion be necessary for the purpose of ensuring a fair and effectual trial of the petition.

79. Relief that may be claimed by the petitioner.—A petitioner may claim any one of the following declarations:—

(a) that the election of the returned candidate is void;

(b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected;

(c) that the election is wholly void.

80. Petition when to be dismissed.—If the provisions of section 76, section 78 or section 112 are not complied with, the Election Commission shall dismiss the petition :

Provided that if a person making the petition satisfies the Election Commission that sufficient cause existed for his failure to present the petition within the period prescribed therefor, the Election Commission may in its discretion condone such failure.

CHAPTER III

Trial of election petitions

81. Appointment of Election Tribunal.—(1) If the petition is not dismissed under section 80, the Election Commission shall appoint an Election Tribunal for the trial of the petition.

(2) For the purpose of constituting such Tribunals the Election Commission shall obtain from the High Court of each State (other than Jammu and Kashmir)—

(*a*) a list of such officers of not less than 10 years' standing belonging to the judicial service of the State as are in the opinion of the High Court fit to be appointed as members of the Election Tribunals, and

(*b*) a list of advocates of that High Court who have been in practice for a period of not less than 10 years and who are in the opinion of the High Court fit to be appointed as such members,

and shall maintain the lists by making such alterations therein as the High Court may from time to time direct.

(3) Every Tribunal appointed under sub-section (1) shall consist of—

(*a*) a Chairman, who shall be a district judge selected by the Election Commission from the lists of judicial officers maintained by it under sub-section (2); and

(*b*) one other member, who shall be either a judicial officer or an advocate selected by the Election Commission from any of the lists maintained by it under sub-section (2) :

Provided that where the petition for the trial of which a Tribunal is to be appointed is in respect of an election to the Legislative Assembly or the Legislative Council of a State, no member of the Tribunal shall be selected from the list of judicial officers pertaining to another State except with the consent of the Government of the other State :

Provided further that nothing in this sub-section shall be deemed to prevent the appointment of a Chairman of the Tribunal before that of the other member.

(4) If during the course of the trial, any member of a Tribunal is for any reason unable to perform his functions or has to relinquish his membership, the Election Commission shall appoint another member in accordance with the provisions of sub-section (3), and upon his joining the Tribunal the trial shall be continued as if he had been on the Tribunal from the commencement of the trial :

Provided that the Tribunal may, if it thinks fit, recall and re-examine any of the witnesses already examined.

(5) References to the Tribunal in this Part shall, as respects any matter to be done before the commencement of the trial, be deemed to be references to the Chairman of the Tribunal.

(6) In this section, the expressions "district judge" and "judicial service" have the same meanings as in article 236.

82. Connected petitions to be referred to same Tribunal.—Where more petitions than one are presented in respect of the same election, the Election Commission shall refer all of them to the same Tribunal, which may, in its discretion try them separately or in one or more groups.

83. Place of trial.—The trial shall be held at such place as the Election Commission may appoint:

Provided that a Tribunal may, in its discretion, sit for any part of the trial at any other place in the State in which the election to which the petition relates has taken place.

84. Attendance of law officers.—(1) The Tribunal may, in the case of an election petition in relation to an election to fill a seat in either House of Parliament, require the Attorney-General of India or the Advocate-General of the State in which the election has taken place or some person acting under the instructions of the Attorney-General or such Advocate-General, and in the case of an election petition in relation to an election to fill a seat in the House or either House of the Legislature of a State, require the Advocate-General of the State in which the election has taken place or some person acting under his instructions, to attend at the trial.

(2) The Attorney-General or the Advocate-General or the person acting under the instructions of the Attorney-General or the Advocate-General, as the case may be, shall, when so required, attend at the trial and shall take such part therein as the Tribunal may direct.

85. Procedure before the Tribunal.—(1) The Tribunal shall, as soon as may be, cause a copy of the petition to be served on each respondent and to be published in the official Gazette, and at any time within fourteen days after such publication, any other candidate shall subject to the provisions of section 114, be entitled to be joined as a respondent.

(2) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the Tribunal, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Act V of 1908), to the trial of suits:

Provided that it shall only be necessary for the Tribunal to make a memorandum of the substance of the evidence of any witness examined by the Tribunal:

Provided further that the Tribunal shall have the discretion to refuse to examine any witness or witnesses if it is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(3) The provisions of the Indian Evidence Act, 1872 (I of 1872), shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.

(4) Notwithstanding anything contained in section 80, the Tribunal may dismiss an election petition which does not comply with the provisions of section 76, section 78 or section 112:

Provided that an election petition shall not be dismissed under this sub-section for non-compliance with the provision of section 76 as to the presentation of the petition within the prescribed time if the failure to comply with such provision has been condoned by the Election Commission under the proviso to section 80.

86. Appearance before Tribunal.—Any appearance, application or act before the Tribunal may be made or done by the party in person or by a pleader duly appointed to act on his behalf:

Provided that any such appearance shall, whenever the Tribunal so directs, be made by the party in person.

87. Powers of the Tribunal.—The Tribunal shall have the powers which are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters :—

(*a*) discovery and inspection ;
(*b*) enforcing the attendance of witnesses, and requiring the deposit of their expenses ;
(*c*) compelling the production of documents ;
(*d*) examining witnesses on oath ;
(*e*) granting adjournments ;
(*f*) reception of evidence taken on affidavit ; and
(*g*) issuing commissions for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to it to be material ; and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Tribunal shall be the limits of the State in which the election was held.

88. Documentary evidence.—Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

89. Secrecy of voting not to be infringed.—No witness or other person shall be required to state for whom he has voted at an election.

90. Answering of criminating questions and certificate of indemnity.—(1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture :

Provided that—

(*a*) a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Tribunal ; and

(*b*) an answer given by a witness to a question put by or before the Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IX-A of the Indian Penal Code (Act XLV of 1860) or Part VII of this Act arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

91. Expenses of witnesses.—The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Tribunal to such person, and shall, unless the Tribunal otherwise directs, be deemed to be part of the costs.

92. Recrimination when seat claimed.—(1) When at a trial of an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election :

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the

date of the publication of the election petition under section 85, given notice to the Tribunal of his intention to do so and has also given the security and the further security referred to in sections 112 and 113, respectively.

(2) Every notice referred to in sub-section (1) shall be accompanied by the statement and list of particulars required by section 78 in the case of an election petition and shall be signed and verified in like manner.

93. Decision of the Tribunal.—At the conclusion of the trial of an election petition the Tribunal shall make an order—

(*a*) dismissing the election petition ; or

(*b*) declaring the election of the returned candidate to be void ; or

(*c*) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected ; or

(*d*) declaring the election to be wholly void.

94. Other orders to be made by the Tribunal.—(1) At the time of making an order under section 93 the Tribunal shall also make an order—

(*a*) where any charge is made in the petition of any corrupt or illegal practice having been committed at the election, recording—

(i) a finding whether any corrupt or illegal practice has or has not been proved to have been committed by, or with the connivance of any candidate or his agent at the election, and the nature of that corrupt or illegal practice ; and

(ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice and the nature of that practice, together with any such recommendations as the Tribunal may think proper to make for the exemption of any person from any disqualifications which they may have incurred in this connection under sections 136 to 138 ; and

(*b*) fixing the total amount of costs payable, and specifying the persons by and to whom costs shall be paid :

Provided that no person shall be named in the order under sub-clause (ii) of clause (*a*) unless he has been given a reasonable opportunity of showing cause why he should not be so named.

(2) Any order as to costs under clause (*b*) of sub-section (1) may include a direction for the payment of costs to the law officer attending the trial in pursuance of any requisition of the Tribunal under section 84.

95. Grounds for declaring election to be void.—(1) If the Tribunal is of opinion—

(*a*) that the election has not been a free election by reason that the corrupt practice of bribery or undue influence has extensively prevailed at the election ; or

(*b*) that the election has not been a free election by reason that coercion or intimidation has been exercised or resorted to by any particular community, group or section on another community, group or section, to vote or not to vote in any particular way at the election ; or

(*c*) that in the case of the first elections under this Act, the result of the election has been materially affected by the improper acceptance or rejection of any nomination,

the Tribunal shall declare the election to be wholly void.

(2) Subject to the provisions of sub-section 3, if the Tribunal is of opinion—

(*a*) that the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by any corrupt or illegal practice ; or

(b) that any corrupt practice specified in section 118 has been committed in the interests of a returned candidate; or

(c) that the result of the election has been materially affected by the improper reception or refusal of a vote or by the reception of any vote which is void, or by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act or of any other Act or rules relating to the election, or by any mistake in the use of any prescribed form;

the Tribunal shall declare the election of the returned candidate to be void.

(3) If in the opinion of the Tribunal, a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice specified in section 118, but the Tribunal is satisfied—

(a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the sanction or connivance, of the candidate or his election agent;

(b) that all such corrupt practices were of a trivial and limited character or took the form of customary hospitality which did not affect the result of the election;

(c) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt or illegal practices at the election; and

(d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate or any of his agents,

then the Tribunal may decide that the election of the returned candidate is not void.

96. Grounds for which a candidate other than the returned candidate may be declared to have been elected.—If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate claimed a declaration that he himself or any other candidate has been duly elected and the Tribunal is of opinion—

(a) that in fact the petitioner or such other candidate received a majority of the valid votes; or

(b) that but for the votes obtained by the returned candidate by corrupt or illegal practices the petitioner or such other candidate would have obtained a majority of the valid votes,

the Tribunal shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

97. Procedure in case of an equality of votes.—If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then—

(a) any decision made by the Returning Officer under the provisions of this Act shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and

(b) in so far as that question is not determined by such a decision, the Tribunal shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

98. Supply of orders to the Election Commission and the transmission of the records of the case.—The Tribunal shall, after announcing the orders made under

sections 93 and 94, send a copy thereof to the Election Commission and the records of the case to the District Judge of the District within which the place of trial appointed under section 83 is situate, or if such place is in a presidency-town, to the Chief Judge of the Court of Small Causes having jurisdiction there, as the case may be.

99. Difference of opinion among the members of the Tribunal.—(1) If during the trial of an election petition there is a difference of opinion among the members of the Tribunal on any matter, the opinion of the Chairman shall, subject to the opinion, if any, expressed by the High Court on such matter on a reference made to that Court under sub-section (2), prevail.

(2) If at the conclusion of the trial of an election petition there is a difference of opinion among the members of the Tribunal on any question regarding the orders to be made under section 93 or section 94, the Tribunal shall state the question and refer it together with the opinion of each of its members, to the High Court for its opinion.

(3) The High Court shall, after giving the parties an opportunity of being heard, decide the question so referred for its opinion, and shall cause a copy of its opinion to be transmitted to the Tribunal; and the Tribunal shall, on receipt thereof, proceed to dispose of the election petition in conformity with the opinion of the High Court.

(4) Any opinion expressed by the High Court on an election petition referred to it by the Tribunal under this section shall be final and conclusive and shall be deemed to be the opinion of the Tribunal for the purposes of this Act.

(5) For the purposes of this section "the High Court" means—

(*a*) where the election to which the appeal relates has taken place in a Part A State or a Part B State, the High Court of that State;

(*b*) where such election has taken place in Ajmer or Vindhya Pradesh, the High Court at Allahabad;

(*c*) where such election has taken place in Bhopal, the High Court at Nagpur:

(*d*) where such election has taken place in Bilaspur, Delhi or Himachal Pradesh, the High Court of Punjab;

(*e*) where such election has taken place in Coorg, the High Court at Madras;

(*f*) where such election has taken place in Kutch, the High Court at Bombay; and

(*g*) where such election has taken place in Manipur or Tripura, the High Court of Assam.

100. Orders of the Tribunal to be final.—Every order of the Tribunal made under this Act shall be final and no appeal shall lie therefrom to any authority or power.

101. Transmission of final order to the Election Commission, etc., and its publication.—As soon as may be after the receipt of any order made by the Tribunal under section 93 or section 94, the Election Commission shall forward copies of the order to the appropriate authority and to the Speaker or Chairman, as the case may be, of the House concerned, and shall cause the order to be published in Gazette of India and in the official Gazette of the State concerned.

102. Orders to take effect only on publication.—An order of the Tribunal under section 93 or section 94 shall not take effect until it is published in the Gazette of India under section 101.

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Withdrawal and abatement of election petitions.

103. Withdrawal of petitions before appointment of Tribunal.—An election petition may be withdrawn only by leave of the Election Commission if an application for its withdrawal is made before any Tribunal has been appointed for the trial of such petition.

104. Withdrawal of petitions after appointment of Tribunal—(1) Where an application for withdrawal of an election petition is made after a Tribunal has been appointed for the trial of such petition, the election petition may be withdrawn only by leave of the Tribunal.

(2) Where an application for withdrawal is made under sub-section (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the official Gazette.

105. Procedure for withdrawal of petitions before the Election Commission or the Tribunal.—(1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(2) No application for withdrawal shall be granted if in the opinion of the Election Commission or of the Tribunal, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed.

(3) If the application is granted—

(*a*) the petitioner shall, where the application has been made to the Tribunal, be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the Tribunal may think fit;

(*b*) notice of the withdrawal shall be published in the official Gazette by the Election Commission or by the Tribunal, as the case may be;

(*c*) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions of section 112 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think fit.

106. Report of withdrawal by the Tribunal to the Election Commission.—When an application for withdrawal is granted by the Tribunal and no person has been substituted as petitioner under clause (*c*) of sub-section (3) of section 105, in place of the party withdrawing, the Tribunal shall report the fact to the Election Commission.

107. Abatement of election petitions.—An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners:

Provided that where such sole petitioner was an officer empowered under clause (*b*) of sub-section (1) of section 76, the proceedings shall be continued by such other officer as may be empowered in this behalf by the appropriate authority.

108. Abatement of petition before appointment of Tribunal.—If an election petition abates under section 107 before a Tribunal has been appointed for the trial of the petition, notice of the abatement shall be published in the official Gazette by the Election Commission.

109. Abatement of petition after appointment of Tribunal.—Where an election petition abates under section 107 after a Tribunal has been appointed for the trial of the petition, notice of the abatement shall be published in the official Gazette by the Tribunal.

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110. Substitution on death of petitioner.—After a notice of the abatement of an election petition is published under section 108 or section 109, any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions of section 112 as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think fit.

111. Abatement or substitution on death of respondent.—If before the conclusion of the trial of an election petition, the respondent dies or gives notice that he does not intend to oppose the petition, the Tribunal shall cause notice of such event to be published in the official Gazette, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Tribunal may think fit.

CHAPTER V.

Costs and security for costs.

112. Deposit of security.—Except where an election petition is presented under clause (*b*) of sub-section (1) of section 76, the petitioner shall enclose with the petition a Government Treasury receipt showing that a deposit of one thousand rupees has been made by him either in a Government Treasury or in the Reserve Bank of India in favour of the Secretary to the Election Commission as security for the costs of the petition.

113. Further security for costs.—During the course of the trial of an election petition the Tribunal may at any time call upon the petitioner to give such further security for costs as it may direct, and may, if he fails to do so, dismiss the petition :

Provided that the petitioner shall not be required to give any security where the petition has been presented under clause (*b*) of sub-section (1) of section 76.

114. Security for costs from a respondent.—No person shall be entitled to be joined as a respondent under sub-section (1) of section 85 unless he has given such security for costs as the Tribunal may direct.

115. Costs.—(1) costs including pleaders fees shall be in the discretion of the Tribunal.

(2) The Tribunal may allow interest on costs at a rate not exceeding six per cent per annum, and such interest shall be added to be costs.

116. Payment of costs out of security deposits and return of such deposits.—If in any final order as to costs under the provisions of this Part there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible, out of the security deposit and the further security deposit, if any, made by such party under this Part, on an application made in writing in that behalf to the Election Commission by the person in whose favour the costs have been awarded within a period of six months from the publication of such final order under section 101 ; and if there is any balance left of any of the said security deposits after payment of such costs, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of six months, the whole of the said security deposits may on an application made in that behalf in writing to the Election Commission by the person by whom the deposits have been made, or if such person dies after making such deposits, by the legal representatives of such person, be returned to the said person or to his legal representatives, as the case may be.

117. Execution of orders as to costs.—Any final order as to costs under the provisions of this Part may be produced before the principal civil court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, or where such place is within a presidency town, before the Court of Small Causes having jurisdiction there, and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof may be recovered by an application made under section 116, no application shall lie under this section within a period of six months from the date of publication of such final order under section 101 unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under section 116 owing to the insufficiency of the amount of the security deposits referred to in that section.

PART VII.

Corrupt and Illegal Practices and Electoral Offences.

Chapter I.

Corrupt Practices.

118. Corrupt practices.—The following shall be deemed to be corrupt practices for the purposes of this Act:—

(1) Bribery, that is to say, any gift, offer or promise by a candidate or his agent or by any other person with the connivance of a candidate or his agent, of any gratification to any person whomsoever, with the object, directly or indirectly, of inducing—

(*a*) a person to stand or not to stand as, or to withdraw from being, a candidate at an election; or

(*b*) an elector to vote or refrain from voting at an election,

or as a reward to—

(*i*) a person for having so stood or not stood, or for having withdrawn his candidature; or

(*ii*) an elector for having voted or refrained from voting.

Explanation.—For the purposes of this clause the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money, and it includes all forms of entertainment and all forms of employment for reward; but it does not include the payment of any expenses *bona fide* incurred at or for the purpose of, any election and duly entered in the return of election expenses referred to in section 71.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or his agent, or of any other person with the connivance of the candidate or his agent, with the free exercise of any electoral right:

Provided that—

(*a*) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who—

(*i*) threatens any candidate, his agent, or any elector, or any person in whom a candidate, his agent or an elector is interested, with any injury of any kind; or

(*ii*) induces or attempts to induce a candidate, his agent or an elector to believe that he, or any person in whom he is interested, will

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become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate, agent or elector within the meaning of this clause ;

(*b*) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name, or by a person for a ballot paper in his own name when, by reason of the fact that he has already voted in the same or some other constituency, he is not entitled to vote.

(4) The removal of a ballot paper from the polling station during polling hours by a candidate or his agent, or by any other person with the connivance of a candidate or his agent.

(5) The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawl of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the connivance of a candidate or his agent for the conveyance of any voter to or from any place for the purpose of recording his vote :

Provided that the hiring of a vehicle or vessel by a voter or by several voters at their joint costs for the purpose of conveying him or them to or from the polling station shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression "vehicle" means any vehicle used or capital of being used for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise.

(7) The incurring or authorising by a candidate or his agent of expenditure, or the employment of any person by a candidate or his agent, in contravention of this Act or of any rule thereunder.

(8) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the connivance of a candidate or his agent, any assistance for the furtherance of the prospects of the candidate's election from any person serving under the Government of India or the Government of any State other than the giving of vote by such person.

119. Certain other corrupt practices.—The following shall also be deemed to be corrupt practices for the purposes of this Act :—

(1) Any act specified in clauses (1) to (8) of section 118, when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent.

(2) The application by a person at an election for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name, or for a ballot paper in his own name when, by reason of the fact that he has already voted in the same or some other constituency, he is not entitled to vote.

(3) The receipt of, or agreement to receive, any gratification whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate ; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or for inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw his candidature.

Explanation. - For the purposes of this clause the term "gratification" has the same meaning as it has for the purposes of clause (1) of section 118.

(4) The making of any return of election expenses which is false in any material particular, or the making of a declaration verifying any such return.

(5) The use of, or appeal to, religious and national symbols, such as, the national flag and the national emblem, for furtherance of the prospects of a candidate's election.

CHAPTER II.

Illegal Practices.

120. Illegal Practices.—The following shall be deemed to be illegal practices for the purposes of this Act :—

(1) The incurring or authorisation by any person other than a candidate or his agent of expenses on account of holding any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever, for the purpose of promoting or procuring the election of the candidate, unless he is authorised in writing so to do by the candidate.

(2) The hiring, using or letting, as a committee room or for the purpose of any meeting to which electors are admitted, of any building, room or other place where intoxicating liquor is sold to the public.

(3) The issuing of any circular, placard or poster having a reference to the election which does not bear on its face the name and address of the printer and publisher thereof.

CHAPTER III.

Electoral Offences.

121. Prohibition of election meetings on the election day and the day preceding such day.—(1) No person shall convene, hold or attend any political meeting within any constituency on the date or dates on which poll is taken for an election in that constituency or on the day immediately preceding that date or the first of those dates.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundrend and fifty rupees.

122. Disturbances at election meetings.—(1) Any person who at a public meeting to which this section applies, acts or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with fine which may extend to two hundred and fifty rupees.

(2) This section applies to any political meeting held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member or members and the date on which such election is held.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the Chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

123. Maintenance of secrecy of voting.—(1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

124. Officers, etc., at elections not to act for candidates or to influence voting.—(1) No person who is a Returning Officer, or an Assistant Returning Officer, or presiding or polling officer at an election, or an officer or clerk appointed by the Returning Officer or the presiding officer to perform any duty in connection with an election shall act as an agent of a candidate in the conduct or the management of the election.

(2) No such person as aforesaid, and no member of a police force, shall endeavour—

(*a*) to persuade any person to give his vote at an election, or

(*b*) to dissuade any person from giving his vote at an election, or

(*c*) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to three months or with fine or with both.

125. Prohibition of canvassing in or near polling stations.—(1) No person shall, during the hours fixed for the poll at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely :—

(*a*) canvassing for votes ; or

(*b*) soliciting the vote of any elector ; or

(*c*) persuading any elector not to vote for any particular candidate ; or

(*d*) persuading any elector not to vote at the election ; or

(*e*) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under this section shall be cognizable.

126. Penalty for disorderly conduct in or near polling stations.—(1) No person shall, during the hours fixed for the poll at any polling station,—

(*a*) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud speaker, or

(*b*) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

127. Penalty for misconduct at the polling station.—(1) Any person who, during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

128. Penalty for illegal hiring or procuring conveyances at elections.—If any person is guilty of any such corrupt practice as is specified in clause (6) of section 118 at or in connection with an election, he shall be punishable with fine which may extend to two hundred and fifty rupees.

129. Breaches of official duty in connection with elections.—(1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the Electoral Registration Officers, Returning Officers, Assistant Returning Officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the preparation of an electoral roll, the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act or by or under the Representation of the People Act, 1950.

130. Removal of ballot papers from polling station to be an offence.—(1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer;

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

131. Other offences and penalties therefor.—(1) A person shall be guilty of an electoral offence if at any election he—

(*a*) fraudulently defaces or fraudulently destroys any nomination paper ; or

(*b*) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot ; or

(*c*) without due authority supplies any ballot paper to any person ; or

(*d*) fraudulenly puts into any ballot box anything other than the ballot paper which he is authorised by law to put in : or

(*e*) without due autority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election ; or

(*f*) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral offence under this section shall—

(*a*) if he is a Returning Officer or an Assistant Returning Officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both ;

(*b*) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act or by or under the Representation of the People Act, 1950.

(4) An offence punishable under clause (*b*) of sub-section (2) shall be cognizable.

132. Special provisions for complaint regarding certain offences.—No court shall take cognizance of any offence punishable under section 129 or under clause (*a*) of sub-section (2) of section 131 unless there is a complaint made by order of, or under authority from, the Election Commission or a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State concerned.

133. Amendment of Act V of 1898.—In the Code of Criminal Procedure, 1898—

(*a*) in section 196, after the word and figures "section 127", the words, figures and letter "and section 171-F, so far as it relates to the offence of personation" shall be inserted ;

(*b*) in Schedule II—

(i) in the entry relating to section 171-F of the Indian Penal Code (Act XLV of 1860 from the paragraph in column 2, the words "and personation" shall be omitted ;

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(ii) after the paragraph in column 2 of the said entry as so amended, the following paragraph shall be inserted, namely :—

"Personation at an election." ;

(iii) in column 3. opposite the paragraph inserted by sub-clause (ii), the following paragraph shall be inserted, namely :—

"May arrest without warrant ;"

(iv) in columns 4, 5, 6, 7 and 8, opposite the paragraph inserted by sub-clause (ii), the word "Ditto" shall be inserted ;

(v) in the entry relating to section 171-G of the Indian Penal Code, in column 3, for the word "Ditto" the words "shall not arrest without warrant" shall be substituted.

PART VIII

DISQUALIFICATIONS

CHAPTER I

Disqualifications for membership

134. Offences entailing disqualification.—(1) The following offences shall entail disqualification for membership of Parliament and of the Legislature of every State, namely :—

(*a*) offences punishable with imprisonment under section 171E or 171F of the Indian Penal Code, and

(*b*) offences puuishable under section 130 or clause (*a*) of sub-section (2) of section 131 of this Act.

(2) The period of such disqualification shall be six years from date of the conviction for the offence.

135. Corrupt and illegal practices entailing disqualifications.—(1) The following corrupt or illegal practices shall entail disqualification for membership of Parliament and or the Legislature of every State, namely :—

(*a*) corrupt practices specified in section 118 or section 119 in relation to elections as defined in section 2 ; and

(*b*) illegal practices specified in section 120 in relation to elections as defined in section 2 other than the elections by members of the Legislative Assembly of a State to fill seats in tha Council of States or the Legislative Council of that State.

(2) The period of such disqualification shall be six years in the case of a corrupt practice, and four years in the case of an illegal practice, counting from the date on which the finding of the Election Tribunal as to such practice takes effect under this Act.

CHAPTER II

Disqualification for voting

136. Disqualification arising out of conviction and corrupt practices.—If any person after the commencement of this Act—

(*a*) is convicted of an offence punishable under any of the provisions of Chapter III of Part VII of this Act or Chapter IX A of the Indian Penal Code (Act XLV of 1860) with imprisonment for a term exceeding six months, or

(*b*) is, upon the trial of an election petition under Part VI of this Act, found guilty of any corrupt practice,

he shall, for a period of six years from the date of the conviction or from the date on which such finding takes effect, be disqualified from voting at any election.

137. Disqualification arising out of illegal practices.—If, in relation to any election, (other than an election by the members of the Legislative Assembly of a State to fill seats in the Council of States or in the Legislative Council of that State), any person is, upon the trial of an election petition under Part VI of this Act, found guilty of illegal practice, he shall be disqualified for voting at any election for a period of four years from the date on which such finding takes effect.

138. Disqualification arising out of failure to lodge return of election expences.—If default is made in making the return of the election expenses of any person who has been nominated as a candidate at an election to which the provisions of Chapter IX of Part V of this Act apply, or if such a return is found either upon the trial of an election petition under Part VI of this Act or by any court in a judicial proceeding, to be false in any material particular, the candidate and his election agent shall be disqualified for voting at any election for a period of five years from the date by which the return was required to be lodged.

139. Removal of disqualifications.—Any disqualification under this Chapter may be removed by the Election Commission for reasons to be recorded by it in writing.

CHAPTER III

Other Disqualifications

140. Disqualification for being an election agent.—Any person who is for the time being disqualified under the forgoing provisions of this Part for being a member of either House of Parliament or the House or either House of the Legislature of a State or for voting at elections, shall, so long as the disqualification subsists, also be disqualified for being an election agent at any election.

141. Disqualification for holding certain offices.—Any person who has been convicted of an offence under section 171-E or section 171-F of the Indian Penal Code (Act XLV of 1860), or has been disqualified from exercising any electoral right for a period of not less than five years on account of any corrupt practices in connection with an election shall be disqualified for five years from the date of such conviction or disqualification from—

(*a*) being appointed to, or acting in, any judicial office ;

(*b*) being elected to any office of any local authority when the appointment to such office is by election, or holding or exercising any such office to which no salary is attached ;

(*c*) being elected or sitting or voting as a member of any local authority ; or

(*d*) being appointed or acting as a trustee of a public trust :

Provided that any such disqualification may be removed by the Election Commission.

PART IX

BYE-ELECTIONS

142. Casual vacancies in the Council of States.—When before the expiration of the term of office of a member elected to the Council of States, his seat becomes vacant or is declared vacant or his election to the Council of States is declared void, the President shall by a notification in the Gazette of India call upon the members

of the Legislative Assembly of the State concerned or the Council of States constituency concerned, as the case may be, to elect a person for the purpose of filling the vacancy so caused within such time as may be appointed in this behalf by the Election Commission and specified in the said notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

143. Casual vacancies in the House of the People.—(1) When the seat of a member elected to the House of the People becomes vacant or is declared vacant or his election to the House of the People is declared void, the President shall, subject to the provisons of sub-section (2) by a notification in the Gazette of India, call upon the Parliamentary constituency concerned to elect a person for the purpose of filling the vacancy so caused within such time as may be appointed in this behalf by the Election Commission and specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

(2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the scheduled castes or for the scheduled tribes, the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the scheduled castes or to the scheduled tribes, as the case may be.

144. Casual vacancies in the State Legislative Assemblies.—(1) When the seat of a member elected to the Legislative Assembly of a State becomes vacant or is declared vacant or his election to the Legislative Assembly is declared void, the Governor or the Rajpramukh of the State, as the case may be, shall, subject to the provisions of sub-section (2), by a notification in the official Gazette, call upon the Assembly constituency concerned to elect a person for the purpose of filling the vacancy so caused within such time as may be appointed in this behalf by the Election Commission and specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

(2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the scheduled castes or for the scheduled tribes, the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the scheduled castes or to the scheduled tribes, as the case may be.

145. Casual vacancies in the State Legislative Councils.—When before the expiration of the term of office of a member elected to the Legislative Council of a State, his seat becomes vacant or is declared vacant or his election to the Legislative Council is declared void, the Governor, or the Rajpramukh of the State as the case may be, shall by a notification in the official Gazette call upon the Council Constituency concerned are the members of the Legislative Assembly of the State, as the case may be, to elect a person for the purpose of filling the vacancy so caused, within such time as may be appointed in this behalf by the Election Commission and specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

PART X

MISCELLANEOUS

146. List of members of the State Legislative Assembly to be maintained by the Returning Officer.—(1) The Returning Officer for an election by the members of the Legislative Assembly of a State to fill seats in the Council of States or in the Legislative Council of the State shall for the purposes of such election maintain at his office in the prescribed manner and form a list of members of that Legislative Assembly.

(2) Copies of the list shall be made avilable in the prescribed manner to members of the Legislative Assembly.

147. Extension of time for completion of election.—(1) It shall be competent for the Election Commission for reasons which it considers sufficient to extend the time appointed by such Commission under the provisions of sub-section (1) or sub-section (2) of section 8, or section 10, or section 12, or sub-section (1) or sub-section (2) of section 13 for the completion of any general or biennial election, or the time appointed by such Commission under any of the provisions of Part IX for the completion of any election to fill a casual vacancy.

(2) When the time for the completion of any election is so extended, the President or the Governor or Rajpramukh of the State, as the case may be, shall by notification in the official Gazette make the necessary amendments in the notification issued in respect of such election under any of the provisions referred to in sub-section (1).

148. Term of office of members of the Council of States.—(1) The term of office of a member elected to fill the seat in the Council of States to be filled by the representative of the States of Ajmer and Coorg and of a member nominated to fill the seat in that Council to be filled by the representative of the States of Manipur and Tripura, other than a member chosen to fill a casual vacancy in either of those seats, shall be two years.

(2) Subject as aforesaid, the term of office of a member of the Council of States, other than a member chosen to fill a casual vacancy, shall be six years, but upon the first constitution of the Council of States the President, shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter.

(3) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

149. Commencement of term of office of members of the Council of States.—(1) The term of office of a member of the Council of States whose name is required to be notified in the official Gazette under section 67 shall begin on the date of such notification.

(2) The Term of office of a member of the Council of States whose name is not required to be notified under section 67 shall begin on the date of publication in the official Gazette of the declaration containing the name of such person as elected under section 63 or of the notification issued under sub-clause (*a*) of clause (1) of article 80 or under any other provision announcing the nomination of such person to the Council of States, as the case may be.

150. Term of office of members of State Legislative Councils.—(1) The term of office of a member of the Legislative Council of a Stats, other than a member chosen to fill a casual vacancy, shall be six years, but upon the first constitution of the Council the Governor or the Rajpramukh, as the case may be, shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order, that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter.

(2) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

151. Commencement of the term of office of members of the Legislative Councils.—(1) The term of office of a member of the Legislative Council of a State whose name is required to be notified in the official Gazette under section 70 shall begin on the date of such notification.

(2) The term of office of a member of the Legislative Council of a State whose name is not required to be notified under section 70 shall begin on the date of publication in the official Gazette of the declaration containing the name of such person as elected under section 63 or of the notification issued under sub-clause (*e*) of clause (3) of article 171, announcing the nomination of such person to the Council, as the case may be.

152. Return or forfeiture of deposits.—(1) If a candidate by whom the deposit referred to in section 29 or in that section read with sub-section (3) of secction 34 has been made withdraws his candidature in the manner and within the time specified in sub-section (1) of section 32 or in that sub-section read with the said sub-section (3), or if the nomination of any such candidate is rejected, the deposit shall be returned to him; and if a candidate dies before the commencement of the poll, the deposit made by him shall be returned to his legal representatives.

(2) If a candidate nominated under section 27 by whom a deposit has been made under section 29 is not elected, and the number of votes polled by him does not exceed one-eighth of the total number of votes polled or, in the case of a constituency returning more than one member, one eighth of the total number of votes polled divided by the total number of members to be elected, the deposit shall be forfeited to the appropriate authority.

(3) For the purpose of sub-section (2), the number of votes polled shall be deemed to be the number of ballot papers, other than rejected ballot papers, counted.

(4) The deposit made by a candidate under section 29 or under that section read with sub-section (3) of section 34, shall, where it is not forfeited under sub-section (2), be returned to him after the publication of the result of the election in the official Gaeette:

Provided that if a candidate is duly nominated at a general election in more than one Parliamentary constituency or Council of States or Assembly constituency, not more than one of the deposits made by him shall be returned, and the remainder shall be forfeited to the appropriate authority:

Provided further that if a candidate is duly nominated at an election in more than one Council constituency or at an election in a Council constituency and an election by the members of the State Legislative Assembly to fill seats in the State Legislative Council, not more than one of the deposits made by him shall be returned, and the remainder shall be forfeited to the State Government.

153. Requisitioning of premises, vehicles, etc, for election purposes.—(1) If it appears to the State Government that in connection with an election held within State—

(*a*) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or

(*b*) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election.

that Government may by order in writing requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the State Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

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(3) In this section—

(a) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(b) "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

154. Payment of compensation.—(1) Whenever in pursuance of section 153 the State Government requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

(i) the rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if in consequence of the requisition of the premises the person interested is compelled, to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the State Government to an arbitrator appointed in this behalf by that Government for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression "person interested" means any person claiming an interest in compensation payable for the requisitioning of any premises under section 153.

(2) Whenever in pursuance of section 153 the State Government requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof compensation the amount of which shall be determined by the State Government on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under this section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the State Government in this behalf may decide.

155. Power to obtain information.—The State Government may, with a view to requisitioning any property under section 153 or determining the compensation payable under section 154, by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

156. Powers of entry into and inspection of premises, etc.—(1) Any person authorised in this behalf by the State Government may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of

determining whether, and if so, in what manner an order under section 153 should be made in relation to such premises, vehicle, vessel or animal or with a view to securing compliance with any order made under that section.

(2) In this section, the expressions "premises" and "vehicle" have the same meanings as in section 153.

157. Eviction from requisitioned premises.—(1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 153 may be summarily evicted from the premises by any officer empowered by the State Government in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

158. Release of premises from requisition.—When any premises requisitioned under section 153 is to be released from requisition the possession thereof shall be delivered to the person deemed by the State Government to be the owner of such premises or to any other person from whom possession was taken at the time when the premises was requisitioned, and such delivery of possession shall be a full discharge of the State Government from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

159. Delegation of functions of the State Government with regard to requisitioning.—The State Government may, by notification in the official Gazette, direct that any powers conferred or any duty imposed on that government by any of the provisions of sections 153 to 158 shall, under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer or class of officers as may be so specified.

160. Penalty for contravention of any order regarding requisitioning.—If any person contravenes any order made under section 153 or section 155, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

PART XI

General

161. Power to make rules.—(1) The Central Government may, after consulting the Election Commission, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the duties of presiding officers and polling officers at polling stations ;

(*b*) the checking of voters by reference to the electoral roll ;

(*c*) the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability ;

(*d*) the procedure to be followed in respect of the tender of vote by a person representing himself to be an elector after another person has voted as such elector ;

(*e*) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation by means of the single transferable vote ;

(*f*) the scrutiny and counting of votes including cases in which a recount of the votes may be made before the declaration of the result of the election;

(*g*) the safe custody of ballot boxes, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;

(*h*) any other matter required to be prescribed by this Act.

162. Jurisdiction of civil courts barred.—No civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the Returning Officer or by any other person appointed under this Act in connection with an election.

163. Repeal of Act XXXIX of 1920.—The Indian Elections Offences and Enquiries Act, 1920, is hereby repealed:

Provided that such repeal shall not affect any inquiry in respect of an election to fill any casual vacancy referred to in clause (1) or clause (2) of article 388 by an Election Tribunal appointed for that purpose by the Election Commission, and the provisions of the said Act shall apply in relation to such election and inquiry notwithstanding such repeal subject to any order made by the President under the said clause (1) or clause (2), as the case may be.

STATEMENT OF OBJECTS AND REASONS

During the last Budget Session of Parliament the Representation of the People Act, 1950, was passed. It did not contain all the provisions relating to elections but merely provided for the allocation of seats in, and the delimitation of, constituencies for the purpose of elections to the House of the People and the Legislatures of States, the qualifications of voters at such elections and the preparation of electoral rolls. Provisions for the actual conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of these Houses, the corrupt and illegal practices and other election offences, and the decision of election disputes were all left to be made in a subsequent measure. The Bill seeks to make those provisions.

B. R. AMBEDKAR.

NEW DELHI;
The 13*th December*, 1950.

NOTES ON CLAUSES

Clauses 3 to 6.—Articles 84 and 173 of the Constitution have laid down certain qualifications for membership of Parliament and of the State Legislatures and have left it to Parliament to prescribe such further qualifications as it may consider necessary. Clauses 3 to 6 seek to prescribe these further qualifications for membership.

It is proposed to amend the Representation of the People Act, 1950, to include therein appropriate provisions for the filling of the seat in the Council of States allotted to the States of Manipur and Tripura by nomination by the President and for the filling of the seats in the said Council allotted to other Part C States by election held in territorial constituencies (to be known as Council of States constituencies) by special electorates constituted for the purpose based on a restricted franchise.

Clause 4 enables any person whose name is included in the electoral roll of any Parliamentary constituency to stand as a candidate for any seat, not only in that constituency, but also in any other Parliamentary constituency. This clause also enables a person whose name is included in the electoral roll of a Parliamentary constituency to stand as a candidate for any seat in the House of the People reserved for scheduled castes in any State if such person is a member of any of the scheduled castes whether of that State or of any other State.

Provision has been made in *Clause 5* for enabling any person whose name included in the electoral roll of any Assembly constituency in a State to stand as candidate for any seat in that constituency or in any other Assembly constituion of that State.

Clause 6 enables any person whose name is included in the electoral roll of the Assembly constituency in a State to stand as a candidate for any seat in any Cou constituency in that State.

Clause 7.—Articles 102(1) and 191(1) of the Constitution have laid down certain disqualifications for membership of Parliament and of the Legislatures of States and have left it to Parliament to prescribe by law such further disqualifications as it may consider necessary. Clause 7 provides for these further disqualifications for membership of Parliament or of a State Legislature. The provisions included in this clause are based on similar provisions contained in section 69 of the Government of India Act, 1935.

Clauses 8, 10, 12 and 13 provide that the notification calling upon a constituency or the members of the Legislative Assembly of a State to elect members at a general election or, in the case of elections to fill seats in the Council of States or the Legislative Council of a State, at a biennial election, shall be issued by the President where the election is to fill a seat in either House of Parliament and by the Governor or Rajpramukh of the State where the election is to fill a seat in the House or either House of the Legislature of a State, and that the date for the completion of the election to be specified in any such notification shall be the date fixed in this behalf by the Election Commission.

Clauses 25 to 34 deal with nomination of candidates at elections, deposits at the time of nomination, scrutiny of nominations and withdrawal of candidatures. These provisions are more or less on the lines of similar provisions at present in force in the various States for elections to the Legislatures of States. Power has been conferred on the Returning Officers by the proviso to sub-clause (5) of clause 28 of the Bill to permit any clerical error in the nomination paper to be corrected, or to direct any clerical or printing error in the electoral roll to be overlooked, so as to minimise the possibility of rejection of nomination papers on technical grounds. A lower amount of deposit has been prescribed for candidates belonging to the scheduled castes and scheduled tribes.

Clause 35 provides for appeal from the decision of the Returning Officer accepting or rejecting any nomination to an appellate authority to be appointed in this behalf by the Election Commission. It has been provided in this clause that the decision of the appellate authority and, subject only to such decision, the decision of the Returning Officer accepting or rejecting a nomination paper will be final, so that any question as to the validity of any nomination paper may not be raised afterwards before the Election Tribunal. This procedure will avoid the incurring of large expenditure in contesting an election which is afterwards declared void on account of the invalidity of a nomination paper. In view of the shortness of time within which the first elections will have to be held the application of the provisions of this clause to the first elections has been specifically excluded.

Clauses 50 and 51.—Clause 50 sets out the special procedure to be followed at elections in constituencies where seats are reserved for scheduled castes or scheduled

tribes. Clause 51 provides that a member of the scheduled castes or of the scheduled tribes shall not be disqualified to hold a seat not reserved for those castes or tribes if he is otherwise qualified to hold such seat. Accordingly, the procedure to be followed in declaring the results of elections in constituencies where certain seats are reserved for those castes or tribes has been explained in detail in clause 50 having regard to the provisions of clause 51.

Clause 53 provides for the adjournment of poll at an election in case of riot or open violence or on account of any natural calamity or failure of arrangements for taking the poll or other sufficient cause and *clause 54* authorises the holding of a fresh poll at an election in the case where ballot boxes are tampered with, destroyed or lost and it has been provided in those clauses that the Returning Officer shall not count the votes cast at any such election until such adjourned or fresh poll shall have been completed.

Clause 56 authorises the making of a provision by rule for enabling any such person as is referred to in sub-section (3) or sub-section (4) of section 20 of the Representation of the People Act, 1950, and the wife of any such person to whom the provisions of sub-section (6) of the said section apply and also any person attending on official duty at a polling station to give his vote by postal ballot. This special procedure is necessary to enable the classes of persons described above who will not be able to attend the polling station to record their votes without going there.

Clause 57 authorises the making of a provision by rule for enabling the thumb or any other finger of every intending voter to be marked with indelible ink before delivery of ballot paper to him for voting and for prohibiting the delivery of any ballot paper to any person who has already such mark on his thumb or other finger so as to prevent personation of voters.

Clause 58 prescribes certain limitations on the right of a person to vote. Sub-clause (5) of this clause prohibits the voting by any person who is confined in a prison or is in the lawful custody of the police or is subjected to preventive detention. It will obviously be unsafe to allow this class of persons liberty to go to polling stations for the purpose of voting; and the provision of special guards, etc., for that purpose will also be entirely impracticable.

Clause 59 prescribes the method of voting to be followed in certain plural member constituencies and is based on a previous decision taken by the Constituent Assembly that in plural member constituencies the voting shall be distributive. It is accordingly provided in this clause that, in plural member constituencies other than Council constituencies, every elector shall have as many votes as there are members to be elected, but no elector shall give more than one vote to any one candidate. It has been further provided in this clause that if a person gives more than one vote to any candidate in contravention of the said provision all the votes given to such candidate shall be void.

Clauses 64 and 65.—Clause (1) of article 101 of the Constitution prohibits membership of both Houses of Parliament and empowers Parliament to make provision by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other. Clauses 64 and 65 provide for the vacation of one of the seats when a person is elected to both Houses of Parliament or when a person who is already a member of one House is elected to the other House of Parliament.

Clause 66 provides for the vacation of all but one of the seats, when a person is elected to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State.

Clauses 71 to 73.—These provisions are based on the provisions as to election expenses contained in the Government of India (Provincial Elections) (Corrupt

Practices and Elections Petitions) Order, 1936. The maximum scales of election expenses at elections and the numbers and descriptions of persons who may be employed for payment in connection with election have been left to be prescribed by rules.

Clause 76 provides for the presentation of an election petition to the Election Commission, and not to the President or the Governor or Rajpramukh of a State as has been the practice hitherto. Under the Government of India Act, 1935, the Governor-General or the Governor was authorised to appoint an Election Commission to determine any election dispute but article 324 of the Constitution authorise the Election Commission constituted under that article to appoint Electi Tribunals for the decision of doubts and disputes arising out of or in connect with an election. It has therefore been considered necessary to provide for t presentation of an election petition to the Election Commission.

Clause 81 provides for the appointment of Election Tribunals. A depratur from the existing practice has been made in this clause. Hitherto, every Election Tribunal appointed to inquire into on election petition consisted of three members. It is proposed in this clause that the Election Tribunal to be appointed by the Election Commission shall consist of two members, of whom one, the Chairman, shall be a District Judge to be selected by the Election Commission from list of judicial officers of not less than 10 years' standing to be maintained by the Com mission in consultation with the High Courts of various States, and the oth member shall be either a judicial officer selected by the Election Commission fr these lists or an advocate with not less than 10 years' practice selected by it fr similar lists maintained for the purposes in consultation with the High Cour Provision has been made in clause 99 that in case of difference of opinion amon the members of the Tribunal, there would be a reference to the High Court.

Clauses 85 to 92 lay down the procedure to be followed at the trial of an election petition. These provisions are based generally on the existing provisions on the subject contained in the various electoral rules and the Indian Elections Offences and Inquiries Act, 1920 (XXXIX of 1920).

Clauses 93 and 94 provide for the final order by the Tribunal at the conclusion of the trial of an election petition. Under the existing procedure at the conclusion of the inquiry into an election petition the Commissioners are required to report to the President or to the Governor about their finding and thereupon the President or the Governor is required to issue orders in accordance with the report and to publish the report in the Gazette. This seems to be hardly necessary. It has therefore been provided that at the conclusion of the trial of an election petition the Tribunal shall make the necessary order either dismissing the petition or declaring the election of the returned candidate to be void or declaring the petitioner or any other candidate to have been duly elected or declaring the election to be wholly void and, where any charge of any corrupt or illegal practice has been made, record the necessary finding with regard thereto and also make order as to costs.

Clause 95 lays down the grounds on which an election may be declared to be wholly void, and also the grounds on which the election of a returned candidate may be declared void, and is based on the corresponding provisions contained in the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936. A distinction has however been made between the cases in which the election will be declared to be wholly void and in which the election of a returned candidate will be declared void. Item (*b*) of sub-clause (1) of this clause is new. It may be also noticed that the improper acceptance or rejection of any nomination has been mentioned as a ground for declaring the election to be wholly void only in the case of first elections, and not in the case of any other elections, in view of the provisions contained in *clause 35* as to appeals from the

decisions of Returning Officers accepting or rejecting any nomination paper in the case of all elections other than the first elections. It may be further noticed that this clause contains references both to corrupt practices and illegal practices. A distinction has been made in the Bill between corrupt practices and illegal practices. In the U. K., Canada, Australia and the Irish Free State, this distinction is maintained in all electoral laws. A corrupt practice differs materially from an illegal practice. In the former a corrupt intent is essential whereas in the latter what has to be ascertained is whether the act done is forbidden by law. In India, hitherto,. there has been no distinction between corrupt practices and illegal practices in our electoral laws. In fact what are termed as illegal practices under the Commonwealth laws have lsao been included in the list of corrupt practices annexed to our existing electoral laws. Thus the corrupt practices specified in Part III of the First Schedule to the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, are really illegal practices under the U.K. law, for the acts specified therein are forbidden, whether or not they are done with a corrupt intent.

Clause 96 lays down the grounds on which a candidate other than the Returned candidate may be declared to have been elected.

Clause 97 is new. It is based on section 122 (6) of the U.K. Representation of the People Act, 1949. This provision will enable the Election Tribunal, in the case where on a scrutiny or recount of the votes at the trial of an election petition an equality of votes is found to exist between any candidates, to determine by lot which of the candidates will be declared elected.

Clause 99 provides for a reference to the High Court in case of difference of opinion among the members of a Tribunal. Such a reference will be made at the conclusion of the trial of an election petition and on receipt of the opinion of the High Court the Tribunal will pass orders in accordance with such opinion.

Clauses 103 to 111 provide for the withdrawal and abatement of, and substitution of parties to, an election petition and follow closely the existing rules on the subject with the modification that the powers which are exercisable under those rules by the President or Governor or Rajpramukh would be exercised under these clauses by the Election Commission.

Clauses 112 to 117 make provisions for costs which may be awarded by the Tribunal on the trial of an election petition and also for the taking of security for such costs and the recovery of such costs.

Clause 116 provides for the payment of costs out of security deposits and for the return of the balance of security deposits after payment of costs, if any. When costs have been awarded, a period of six months has been prescribed under this clause for the making of an application for the recovery of such costs out of the security deposits and, if no application is made within that period, the security deposit would be liable to be returned to the petitioner after the expiry of that period.

Clause 117 which lays down the procedure as to the execution of orders as to costs is based on section 12 of the Indian Election Offences and Inquiries Act, 1920. It has however been provided in this clause that no application for execution of any order for costs shall lie within a period of six months from the date of publication of such order under clause 101 unless it is for the recovery of the balance of any such costs which could not be realised out of the security deposits owing to the insufficiency of the amount of such deposits to meet the total costs.

Clause 118 reproduces the corrupt practices set out in Part I of the First Schedule to the Government of India (Provincial Elections) (Corrupt Practices

and Election Petitions) Order, 1936, with the addition of two items, namely, the items specified in sub-clauses (6) and (8) of that clause. The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the connivance of a candidate or his agent for the conveyance of any voter to or from any place for the purpose of recording his vote has been made a corrupt practice under Sub-clause (6). Such a practice is an illegal practice under the U. K. Representation of the People Act, 1949. It has, however, been made clear by the addition of a proviso to that sub-clause that the hiring of a vehicle or vessel by a voter or by several voters at their joint cost for the purpose of conveying him or them to or from the polling station will not be deemed to be a corrupt practice under that sub-clause. A definition of "vehicle" has been also added to that sub-clause for the sake of clarity. The obtaining or procuring, or abetting, or attempting to obtain or procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, any assistance for the furtherance of the prospects of the candidate's election from any person serving under the Government of India or the Government of any State other than the giving of vote by such person has been also made a corrupt practice under sub-clause (8) of this clause.

Clause 119 reproduces the corrupt practices set out in Part II of the First Schedule to the aforesaid order with the addition of one item, namely, the item specified in sub-clause (5) of that clause. The use of an appeal to religious and national symbols, such as, the national flag and the national emblem, for the furtherance of the election of a candidate has been made a corrupt practice under said sub-clause for the sake of ensuring fair elections.

Clause 120 contains a list of illegal practices. The items mentioned in this clause are the same as those mentioned in Part III of the First Schedule to the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936.

Clauses 121 to 133 deal with certain offences with respect to elections. It may be pointed out that Chapter IX-A of the Indian Penal Code already contains provisions for punishment for the corrupt practices of bribery, undue influence and personation at elections. "Bribery", "undue influence" and "personation" as defined in the said Chapter do not differ materially from the descriptions of such practices contained in clause 118 of the Bill which have been reproduced from Part I of the First Schedule to the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, and from the electoral rules which have been in force since 1921. The said Chapter IX-A also contains provisions for punishment for false statements and for illegal payments in connection with an election and for failure to keep election accounts. It has, therefore, been considered unnecessary to include in this Bill any provision for punishment for the corrupt practices and other electoral offences already dealt with in the Indian Penal Code. Further, it would not be possible to omit those provisions from the Indian Penal Code and include them in this Bill, as they apply not only in relation to an election to Parliament, or to the Legislature of a State, but also to every other kind of election, such as, election to Municipalities, District Boards and other local authorities. Accordingly, only provisions with regard to certain other electoral offences have been included in these clauses. These provisions are based mostly on similar provisions contained in the U. K. Representation of the People Act, 1949. The provision contained in the Indian Elections Offences and Inquiries Act, 1920, with regard to maintenance of secrecy of voting at elections has been also included.

Clause 133 seeks to make certain amendments in the Code of Criminal Procedure, 1898, with a view to make the offence of "personation" at elections a cognizable offence. The offence of personation at an election mentioned in section

171-F of the Indian Penal Code is not cognizable offence under the Code of Criminal Procedure, 1898, and under section 195 of that Code no court shall take cognizance of any such offence unless some complaint is made by order of, or under authority from, the State Government or some officers empowered by the State Government in this behalf. It appears that the States of Punjab and Madhya Pradesh have already amended the Code of Criminal Procedure, 1898, in its application to those States so as to make the offence of personation at elections mentioned in the said section 171-F a cognizable offence. Similar amendments have been suggested by this clause in the said Code so that the offence of personation at elections may be made a cognizable offence in all the States.

Clauses 134 to 139 which deal with disqualifications for membership and voting are based on the corresponding provisions contained in Part IV of, and the Second Schedule to, the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936. It may be noticed that a distinction has been made between corrupt practices and illegal practices for the purpose of the disqualifications prescribed in these clauses. Illegal practices referred to in these clauses are really the same as the corrupt practices which were specified in Part III of the First Schedule to the said Order.

Clause 141 reproduces the provisions as to disqualifications contained in section 13 of the Indian Elections Offences and Inquiries Act, 1920.

Clauses 142 to 145 : It may be noticed from these clauses that as in the case of a general or biennial election, so on the occurrence of a casual vacancy the President in the case where such vacancy occurs in the Council of States or the House of the People, and the Governor or the Rajpramukh in the case where such vacancy occurs in a State Legislative Assembly or a State Legislative Council, will call upon the constituency concerned or the members of the Legislative Assembly of the State concerned, as the case may be, to elect a person for the purpose of filling the vacancy so caused within such time as may be appointed in this behalf by the Election Commission. It has also been provided that where the vacancy is in a reserved seat, it shall be filled by a person belonging to the scheduled castes or the scheduled tribes according as the seat is reserved for such castes or for such tribes.

Clause 146 provides for the maintenance of a list of members of each State Assembly. This list will serve the purpose of electoral rolls in the case of elections by the members of the Legislative Assembly of the State to fill seats in the Council of States and in the Legislative Council of that State.

Clause 147 provides power for extending the time appointed by the Election Commission for completing any general or biennial election or any bye-election. It also provides for the making of necessary amendments in the notification issued by the President or the Governor or the Rajpramukh in respect of an election in consequence of extension of the time originally appointed for the completion of such election.

Clauses 148 to 151 provide for the term of office of members of the Council of States and the State Legislative Councils and the commencement of such term. These provisions are necessary in view of the periodical retirement of the members of the Council of States and of the State Legislative Councils provided for in articles 83 (1) and 172 (2). In the proposed Bill to amend the Representation of the People Act, 1950, the intention is to provide that the seat allotted to the States of Manipur and Tripura in the Council of States shall be filled every two years by the nomination of a representative from the State of Manipur and from the State of Tripura by rotation, and that the seat allotted to the States of Ajmer and Coorg in that Council shall be filled by rotation by holding election every two years in the State of Ajmer and in the State of Coorg, and it has

accordingly been suggested in clause 148 that the term of office of each member so nominated or elected shall be two years.

Clauses 153 to 160 provide for the power to requisition any premises for the purpose of being used as a polling station or for the storage of ballot boxes and also the power to requisition any vehicle, vessel or animal for the transport of ballot boxes to or from any polling station or for the transport of the members of the police force for maintaining order during the conduct of an election or transport of any officer or other person for the performance of any duty in connection with an election. The procedure for requisitioning prescribed in these clauses is based on similar provisions contained in the Defence of India Rules.

Clause 162 bars the interference of civil courts with regard to any action taken or decision given by the Returning Officer or any other person appointed in connection with an election.

Clause 163 seeks to repeal the Indian Elections Offences and Inquiries Act, 1920. All the provisions of this Act are being re-enacted in this Bill and so it is unnecessary to retain that Act. A proviso has, however, been added to this clause so as to continue the application of this Act in relation to any election to fill any casual vacancy referred to in clause (1) or clause (2) of article 388 of the Constitution or any inquiry in respect of such election by an Election Tribunal appointed in that behalf by the Election Commission.

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